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"I will stand for my client's rights.
I am a trial lawyer."
—Ron Motley (1944–2013)

VIA ECF

February 7, 2020

The Honorable Sarah Netburn
U.S. Magistrate Judge
United States District Court
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

**Re: *In re Terrorist Attacks on September 11, 2001*
Case No. 03 MDL 1570 (GBD)(SN)
Burnett, et al. v. The Islamic Republic of Iran, et al.
Case No. 15 CV 9903 (GBD)(SN)**

Dear Magistrate Judge Netburn:

I represent plaintiffs in the above-referenced case and write today in response to the Court's Order pertaining to the January 15, 2020 motion from *Burnett* wrongful-death solatium plaintiffs seeking default judgments on their claims. *See* ECF No. 5872 (regarding ECF No. 5662). The Court requested plaintiffs to clarify whether Vertistine Beaman Mbaya, Rekha D. Packer, and Michael Szejnberg "have filed claims in their own right to entitle them to solatium damages." Plaintiffs submit that they have, in fact, filed claims as part of the Amended Complaint (filed in February 2016) in their own right entitling them to solatium damages. In Plaintiffs' Amended Complaint, the language in the caption "on behalf of all beneficiaries" of the decedent was intended to include the individual claims of these individuals and include their claims as parent (Mbaya) and spouse (Packer and Szejnberg) which they are pursuing in this litigation. More to the point here, in addition to the caption language, the *Burnett* Amended Complaint itself pleads information specific to and regarding each of the Plaintiffs at issue in the Court Order. The paragraphs relative to these three Plaintiffs are as follows:

1. "Vertistine B. Mbaya is a surviving Parent and Personal Representative of Kaaria William Mbaya, one of the Decedents murdered as a result of the terrorist attacks of September 11, 2001, that were carried out by al-Qaeda and Osama bin Laden, and to



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- which Iran and the Iranian Defendants provided material support and assistance in furtherance of the attacks.” Case No. 15 CV 9903, ECF No. 53 at ¶789.
2. “Rekha D. Packer is a surviving Spouse and Personal Representative of Michael B. Packer, one of the Decedents murdered as a result of the terrorist attacks of September 11, 2001, that were carried out by al-Qaeda and Osama bin Laden, and to which Iran and the Iranian Defendants provided material support and assistance in furtherance of the attacks.” Case No. 15 CV 9903, ECF No. 53 at ¶2483.
 3. “Michael Szejnberg is a surviving Spouse and Personal Representative of Gina Szejnberg, one of the Decedents murdered as a result of the terrorist attacks of September 11, 2001, that were carried out by al-Qaeda and Osama bin Laden, and to which Iran and the Iranian Defendants provided material support and assistance in furtherance of the attacks.” Case No. 15 CV 9903, ECF No. 53 at ¶3470.

Plaintiffs submit that the caption, in conjunction with the allegations contained in the Amended Complaint regarding Vertistine Beaman Mbaya, Rekha D. Packer, and Michael Szejnberg support the notion that they have asserted claims in this litigation on their own behalf. If the Court believes that these individuals should be added via a *nunc pro tunc* Notice of Amendment, undersigned counsel will readily comply; however, given the circumstances set forth in the pleadings as cited above, Plaintiffs respectfully submit that this should not be necessary.

Respectfully submitted,

/s/ John M. Eubanks

John M. Eubanks

cc: All Counsel of Record (via ECF)